

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

RICARDO SALOM, CATHERINE PALAZZO as assignee for Ruben Palazzo, and PETER HACKINEN, on their own behalf and on behalf of other similarly situated persons.

Plaintiffs,

V.

NATIONSTAR MORTGAGE LLC, et al.,

Defendants.

NO. 2:24-cv-00444-BJR

**REPLY DECLARATION OF BRIAN
ESLER IN FURTHER SUPPORT OF
DEFENDANT FEDERAL HOME LOAN
MORTGAGE CORPORATION'S
MOTION TO DISMISS**

I, Brian Esler, declare as follows:

1. I am a partner at Miller Nash LLP, co-counsel for Defendant Federal Home Mortgage Corporation (“Freddie Mac”) in the above-captioned action. I am admitted to practice before this Court. I respectfully submit this reply declaration in further support of Freddie Mac’s motion to dismiss the Amended Complaint. I have personal knowledge of the matters stated herein, and if called upon as a witness, I could and would testify competently thereto.

2. Annexed hereto as Exhibit A is a true and correct copy of the “Order Granting Federal National Mortgage Association’s Motion for Summary Judgment and Entry of Final Judgment” issued by Judge Ronald B. Rubin in *Kemp v. Seterus, Inc., et al.*, No. 441428-V, entered on July 29, 2022 by the Clerk of the Circuit Court for Montgomery County, Maryland.

REPLY DECLARATION OF BRIAN ESLER IN FURTHER
SUPPORT OF DEFENDANT FEDERAL HOME LOAN
MORTGAGE CORPORATION'S MOTION TO DISMISS
NO. 2:24-cv-00444-BJR

Miller Nash LLP
605 5th Avenue S | Suite 900
Seattle, WA 98104
206.624.8300 Fax: 206.340.9599

3. Freddie Mac respectfully requests that this Court take judicial notice of the foregoing document pursuant to Rule 201 of the Federal Rules of Evidence.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED this 14th day of October, 2024.

/s/ Brian W. Esler
Brian W. Esler, WSBA No. 22168

REPLY DECLARATION OF BRIAN ESLER IN FURTHER
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CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the State of Washington, that the foregoing document was presented to the Clerk of the Court for filing and uploading to the CM/ECF system, which will send notification of such filing to all counsel of record.

DATED this 14th day of October, 2024.

/s/ Kristin Martinez Clark
Kristin Martinez Clark

DECLARATION OF BRIAN ESLER IN SUPPORT OF
DEFENDANT FEDERAL HOME LOAN MORTGAGE
CORPORATION'S MOTION TO DISMISS
NO. 2:24-cv-00444-BJR

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Exhibit A

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, MARYLAND

DONNA KEMP, *on behalf of herself, and on behalf of two classes of similarly situated persons,*

Plaintiffs,

v.

SETERUS, INC. and FEDERAL NATIONAL MORTGAGE ASSOCIATION,

Defendants.

No. 441428-V

Hon. Judge Ronald B. Rubin

ORDER GRANTING FEDERAL NATIONAL MORTGAGE ASSOCIATION'S MOTION FOR SUMMARY JUDGMENT AND ENTRY OF FINAL JUDGMENT

UPON CONSIDERATION of Defendant Federal National Mortgage Association's Motion for Summary Judgment, filed November 29, 2021 (the "Motion for Summary Judgment"), Plaintiff's Opposition thereto, the oral arguments of counsel at the hearing on February 8, 2022, and the entire record herein, it is this 28th day of July, 2022, hereby:

ORDERED that the Motion for Summary Judgment be and hereby is GRANTED; and

FURTHER ORDERED that the Merrill Doctrine applies and bars all claims against Federal National Mortgage Association; and

FURTHER ORDERED that Plaintiff is barred by the Housing and Economic Recovery Act from recovering any fine or penalty from Federal National Mortgage Association; and

FURTHER ORDERED that summary judgment is hereby entered in favor of Federal National Mortgage Association pursuant to Md. Rule 2-501; and

Entered: Clerk, Circuit Court for
Montgomery County, MD
July 29, 2022

FURTHER ORDERED that because there is no just reason for delay final judgment is granted in favor of Federal National Mortgage Association and against Plaintiff Donna Kemp on all of Plaintiff's remaining claims pursuant to Md. Rule 2-602(b); and

FURTHER ORDERED that summary judgment shall be entered in favor of Defendant Federal National Mortgage Association as to all counts in the Plaintiff's Second Amended Complaint, and Defendant Federal National Mortgage Association is therefore DISMISSED WITH PREJUDICE from the above-captioned matter.

CC: All counsel.

Judge Ronald B. Rubin, Circuit Court for
Montgomery County, Maryland

Entered: Clerk, Circuit Court for
Montgomery County, MD
July 29, 2022